

110TH CONGRESS
2D SESSION

H. R. 5720

To amend the Internal Revenue Code of 1986 to provide assistance for
housing.

IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 2008

Mr. RANGEL (for himself, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. POMEROY, Mr. THOMPSON of California, Mr. EMANUEL, Mr. BLUMENAUER, Ms. BERKLEY, Mr. CROWLEY, Mr. ELLISON, Ms. GIFFORDS, Mr. JOHNSON of Georgia, Mr. MAHONEY of Florida, Mr. RODRIGUEZ, Ms. SHEAPORTER, Mr. SIRES, Mr. WELCH of Vermont, and Mrs. JONES of Ohio) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide
assistance for housing.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Housing Assistance Tax Act of 2008”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
 2 shall be considered to be made to a section or other provi-
 3 sion of the Internal Revenue Code of 1986.

4 (c) TABLE OF CONTENTS.—The table of contents of
 5 this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—HOUSING TAX INCENTIVES

Subtitle A—Multi-Family Housing

PART 1—LOW-INCOME HOUSING TAX CREDIT

- Sec. 101. Temporary increase in volume cap for low-income housing tax credit.
- Sec. 102. Determination of credit rate.
- Sec. 103. Modifications to definition of eligible basis.
- Sec. 104. Other simplification and reform of low-income housing tax incentives.

PART 2—MODIFICATIONS TO TAX-EXEMPT HOUSING BOND RULES

- Sec. 111. Recycling of tax-exempt debt for financing residential rental projects.
- Sec. 112. Coordination of certain rules applicable to low-income housing credit and qualified residential rental project exempt facility bonds.

PART 3—REFORMS RELATED TO THE LOW-INCOME HOUSING CREDIT AND TAX-EXEMPT HOUSING BONDS

- Sec. 121. Hold harmless for reductions in area median gross income.
- Sec. 122. Exception to annual current income determination requirement where determination not relevant.

Subtitle B—Single Family Housing

- Sec. 131. First-time homebuyer credit.
- Sec. 132. Additional standard deduction for real property taxes for non-itemizers.

Subtitle C—General Provisions

- Sec. 141. Temporary liberalization of tax-exempt housing bond rules.
- Sec. 142. Repeal of alternative minimum tax limitations on tax-exempt housing bonds, low-income housing tax credit, and rehabilitation credit.
- Sec. 143. Bonds guaranteed by Federal home loan banks eligible for treatment as tax-exempt bonds.
- Sec. 144. Modification of rules pertaining to FIRPTA nonforeign affidavits.
- Sec. 145. Modification of definition of tax-exempt use property for purposes of the rehabilitation credit.

TITLE II—REFORMS RELATED TO REAL ESTATE INVESTMENT TRUSTS

Subtitle A—Foreign Currency and Other Qualified Activities

Sec. 201. Revisions to REIT income tests.
 Sec. 202. Revisions to REIT asset tests.
 Sec. 203. Conforming foreign currency revisions.

Subtitle B—Taxable REIT Subsidiaries

Sec. 211. Conforming taxable REIT subsidiary asset test.

Subtitle C—Dealer Sales

Sec. 221. Holding period under safe harbor.
 Sec. 222. Determining value of sales under safe harbor.

Subtitle D—Health Care REITs

Sec. 231. Conformity for health care facilities.

Subtitle E—Effective Dates

Sec. 241. Effective dates.

TITLE III—REVENUE PROVISIONS

Sec. 301. Broker reporting of customer’s basis in securities transactions.
 Sec. 302. Delay in application of worldwide allocation of interest.
 Sec. 303. Time for payment of corporate estimated taxes.

1 **TITLE I—HOUSING TAX**
 2 **INCENTIVES**
 3 **Subtitle A—Multi-Family Housing**
 4 **PART 1—LOW-INCOME HOUSING TAX CREDIT**
 5 **SEC. 101. TEMPORARY INCREASE IN VOLUME CAP FOR**
 6 **LOW-INCOME HOUSING TAX CREDIT.**

7 Paragraph (3) of section 42(h) is amended by adding
 8 at the end the following new subparagraph:

9 “(I) INCREASE IN STATE HOUSING CREDIT
 10 CEILING FOR 2008 AND 2009.—In the case of
 11 calendar years 2008 and 2009, the dollar
 12 amount in effect under subparagraph (C)(ii)(I)
 13 for such calendar year (after any increase under

1 subparagraph (H)) shall be increased by
2 \$0.20.”.

3 **SEC. 102. DETERMINATION OF CREDIT RATE.**

4 (a) ELIMINATION OF DISTINCTION BETWEEN NEW
5 AND EXISTING BUILDINGS; MINIMUM CREDIT RATE FOR
6 NON-FEDERALLY SUBSIDIZED BUILDINGS.—

7 (1) IN GENERAL.—Subsection (b) section 42 is
8 amended to read as follows:

9 “(b) APPLICABLE PERCENTAGE.—For purposes of
10 this section—

11 “(1) IN GENERAL.—The term ‘applicable per-
12 centage’ means, with respect to any building, the ap-
13 propriate percentage prescribed by the Secretary for
14 the earlier of—

15 “(A) the month in which such building is
16 placed in service, or

17 “(B) at the election of the taxpayer—

18 “(i) the month in which the taxpayer
19 and the housing credit agency enter into
20 an agreement with respect to such building
21 (which is binding on such agency, the tax-
22 payer, and all successors in interest) as to
23 the housing credit dollar amount to be allo-
24 cated to such building, or

1 “(ii) in the case of any building to
2 which subsection (h)(4)(B) applies, the
3 month in which the tax-exempt obligations
4 are issued.

5 A month may be elected under clause (ii) only if the
6 election is made not later than the 5th day after the
7 close of such month. Such an election, once made,
8 shall be irrevocable.

9 “(2) METHOD OF PRESCRIBING PERCENT-
10 AGES.—

11 “(A) IN GENERAL.—For purposes of para-
12 graph (1), the percentages prescribed by the
13 Secretary for any month shall be—

14 “(i) in the case of any building which
15 is not federally subsidized for the taxable
16 year, the greater of—

17 “(I) 9 percent, or

18 “(II) the percentage which will
19 yield over a 10-year period amounts of
20 credit under subsection (a) which have
21 a present value equal to 70 percent of
22 the qualified basis of such building,
23 and

24 “(ii) in the case of any other building,
25 the percentage which will yield over a 10-

1 year period amounts of credit under sub-
2 section (a) which have a present value
3 equal to 30 percent of the qualified basis
4 of such building.

5 “(B) METHOD OF DISCOUNTING.—The
6 present value under subparagraph (A) shall be
7 determined—

8 “(i) as of the last day of the 1st year
9 of the 10-year period referred to in sub-
10 paragraph (A),

11 “(ii) by using a discount rate equal to
12 72 percent of the average of the annual
13 Federal mid-term rate and the annual
14 Federal long-term rate applicable under
15 section 1274(d)(1) to the month applicable
16 under subparagraph (A) and compounded
17 annually, and

18 “(iii) by assuming that the credit al-
19 lowable under this section for any year is
20 received on the last day of such year.

21 “(3) CROSS REFERENCES.—

22 “(A) For treatment of certain rehabilita-
23 tion expenditures as separate buildings, see sub-
24 section (e).

1 “(B) For determination of applicable per-
 2 centage for increases in qualified basis after the
 3 1st year of the credit period, see subsection
 4 (f)(3).

5 “(C) For authority of housing credit agen-
 6 cy to limit applicable percentage and qualified
 7 basis which may be taken into account under
 8 this section with respect to any building, see
 9 subsection (h)(7).”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Subparagraph (B) of section 42(e)(3)
 12 is amended by striking “subsection
 13 (b)(2)(B)(ii)” and inserting “subsection
 14 (b)(2)(A)(ii)”.

15 (B) Subparagraph (A) of section 42(i)(2)
 16 is amended by striking “new building” and in-
 17 serting “building”.

18 (b) MODIFICATIONS TO DEFINITION OF FEDERALLY
 19 SUBSIDIZED BUILDING.—

20 (1) IN GENERAL.—Subparagraph (A) of section
 21 42(i)(2) is amended by striking “, or any below mar-
 22 ket Federal loan,”.

23 (2) CONFORMING AMENDMENTS.—

24 (A) Subparagraph (B) of section 42(i)(2)
 25 is amended—

1 (i) by striking “BALANCE OF LOAN
2 OR” in the heading thereof,

3 (ii) by striking “loan or” in the mat-
4 ter preceding clause (i), and

5 (iii) by striking “subsection (d)—”
6 and all that follows and inserting “sub-
7 section (d) the proceeds of such obliga-
8 tion”.

9 (B) Subparagraph (C) of section 42(i)(2)
10 is amended—

11 (i) by striking “or below market Fed-
12 eral loan” in the matter preceding clause
13 (i),

14 (ii) in clause (i)—

15 (I) by striking “or loan (when
16 issued or made)” and inserting
17 “(when issued)”, and

18 (II) by striking “the proceeds of
19 such obligation or loan” and inserting
20 “the proceeds of such obligation”, and

21 (iii) by striking “, and such loan is re-
22 paid,” in clause (ii).

23 (C) Paragraph (2) of section 42(i) is
24 amended by striking subparagraphs (D) and
25 (E).

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this subsection shall apply to buildings placed in service
 3 after the date of the enactment of this Act.

4 **SEC. 103. MODIFICATIONS TO DEFINITION OF ELIGIBLE**
 5 **BASIS.**

6 (a) INCREASE IN CREDIT FOR CERTAIN STATE DES-
 7 IGNATED BUILDINGS.—Subparagraph (C) of section
 8 42(d)(5) (relating to increase in credit for buildings in
 9 high cost areas), before redesignation under subsection
 10 (d), is amended by adding at the end the following new
 11 clause:

12 “(v) BUILDINGS DESIGNATED BY
 13 STATE HOUSING CREDIT AGENCY.—Any
 14 building which is designated by the State
 15 housing credit agency as requiring the in-
 16 crease in credit under this subparagraph in
 17 order for such building to be financially
 18 feasible as part of a qualified low-income
 19 housing project shall be treated for pur-
 20 poses of this subparagraph as located in a
 21 difficult development area which is des-
 22 ignated for purposes of this subparagraph.
 23 The preceding sentence shall not apply to
 24 any building if paragraph (1) of subsection
 25 (h) does not apply to any portion of the el-

1 igible basis of such building by reason of
2 paragraph (4) of such subsection.”.

3 (b) MODIFICATION TO REHABILITATION REQUIRE-
4 MENTS.—

5 (1) IN GENERAL.—Clause (ii) of section
6 42(e)(3)(A) is amended—

7 (A) by striking “10 percent” in subclause
8 (I) and inserting “20 percent”, and

9 (B) by striking “\$3,000” in subclause (II)
10 and inserting “\$6,000”.

11 (2) INFLATION ADJUSTMENT.—Paragraph (3)
12 of section 42(e) is amended by adding at the end the
13 following new subparagraph:

14 “(D) INFLATION ADJUSTMENT.—In the
15 case of any expenditures which are treated
16 under paragraph (4) as placed in service during
17 any calendar year after 2009, the \$6,000
18 amount in subparagraph (A)(ii)(II) shall be in-
19 creased by an amount equal to—

20 “(i) such dollar amount, multiplied by

21 “(ii) the cost-of-living adjustment de-
22 termined under section 1(f)(3) for such
23 calendar year by substituting ‘calendar
24 year 2008’ for ‘calendar year 1992’ in sub-
25 paragraph (B) thereof.

1 Any increase under the preceding sentence
2 which is not a multiple of \$100 shall be round-
3 ed to the nearest multiple of \$100.”.

4 (3) CONFORMING AMENDMENT.—Subclause (II)
5 of section 42(f)(5)(B)(ii) is amended by striking “if
6 subsection (e)(3)(A)(ii)(II)” and all that follows and
7 inserting “if the dollar amount in effect under sub-
8 section (e)(3)(A)(ii)(II) were two-thirds of such
9 amount.”.

10 (c) INCREASE IN ALLOWABLE COMMUNITY SERVICE
11 FACILITY SPACE FOR SMALL PROJECTS.—Clause (ii) of
12 section 42(d)(4)(C) (relating to limitation) is amended by
13 striking “10 percent of the eligible basis of the qualified
14 low-income housing project of which it is a part. For pur-
15 poses of” and inserting “the sum of—

16 “(I) 15 percent of so much of the
17 eligible basis of the qualified low-in-
18 come housing project of which it is a
19 part as does not exceed \$5,000,000,
20 plus

21 “(II) 10 percent of so much of
22 the eligible basis of such project as is
23 not taken into account under sub-
24 clause (I).

25 For purposes of”.

1 (d) CLARIFICATION OF TREATMENT OF FEDERAL
2 GRANTS.—Subparagraph (A) of section 42(d)(5) is
3 amended to read as follows:

4 “(A) FEDERAL GRANTS NOT TAKEN INTO
5 ACCOUNT IN DETERMINING ELIGIBLE BASIS.—

6 The eligible basis of a building shall not include
7 any costs financed directly or indirectly with the
8 proceeds of a Federally funded grant.”.

9 (e) SIMPLIFICATION OF RELATED PARTY RULES.—
10 Clause (iii) of section 42(d)(2)(D) is amended—

- 11 (1) by striking all that precedes subclause (II),
12 (2) by redesignating subclause (II) as clause
13 (iii) and moving such clause two ems to the left, and
14 (3) by striking the last sentence thereof.

15 (f) REPEAL OF DEADWOOD.—

16 (1) Clause (ii) of section 42(d)(2)(B) is amend-
17 ed by striking “the later of—” and all that follows
18 and inserting “the date the building was last placed
19 in service,”.

20 (2) Subparagraph (D) of section 42(d)(2) is
21 amended by striking clause (i) and by redesignating
22 clauses (ii) and (iii) as clauses (i) and (ii), respec-
23 tively.

1 (3) Paragraph (5) of section 42(d) is amended
2 by striking subparagraph (B) and by redesignating
3 subparagraph (C) as subparagraph (B).

4 (g) EFFECTIVE DATE.—The amendments made by
5 this subsection shall apply to buildings placed in service
6 after the date of the enactment of this Act.

7 **SEC. 104. OTHER SIMPLIFICATION AND REFORM OF LOW-**
8 **INCOME HOUSING TAX INCENTIVES.**

9 (a) REPEAL PROHIBITION ON MODERATE REHABILI-
10 TATION ASSISTANCE.—Paragraph (2) of section 42(c) (de-
11 fining qualified low-income building) is amended by strik-
12 ing the flush sentence at the end.

13 (b) MODIFICATION OF TIME LIMIT FOR INCURRING
14 10 PERCENT OF PROJECT’S COST.—Clause (ii) of section
15 42(h)(1)(E) is amended by striking “(as of the later of
16 the date which is 6 months after the date that the alloca-
17 tion was made or the close of the calendar year in which
18 the allocation is made)” and inserting “(as of the date
19 which is 1 year after the date that the allocation was
20 made)”.

21 (c) REPEAL OF BONDING REQUIREMENT ON DIS-
22 POSITION OF BUILDING.—Paragraph (6) of section 42(j)
23 (relating to no recapture on disposition of building (or in-
24 terest therein) where bond posted) is amended to read as
25 follows:

1 “(6) NO RECAPTURE ON DISPOSITION OF
2 BUILDING WHICH CONTINUES IN QUALIFIED USE.—

3 “(A) IN GENERAL.—The increase in tax
4 under this subsection shall not apply solely by
5 reason of the disposition of a building (or an in-
6 terest therein) if it is reasonably expected that
7 such building will continue to be operated as a
8 qualified low-income building for the remaining
9 compliance period with respect to such building.

10 “(B) STATUTE OF LIMITATIONS.—If a
11 building (or an interest therein) is disposed of
12 during any taxable year and there is any reduc-
13 tion in the qualified basis of such building
14 which results in an increase in tax under this
15 subsection for such taxable or any subsequent
16 taxable year, then—

17 “(i) the statutory period for the as-
18 sessment of any deficiency with respect to
19 such increase in tax shall not expire before
20 the expiration of 3 years from the date the
21 Secretary is notified by the taxpayer (in
22 such manner as the Secretary may pre-
23 scribe) of such reduction in qualified basis,
24 and

1 “(ii) such deficiency may be assessed
2 before the expiration of such 3-year period
3 notwithstanding the provisions of any
4 other law or rule of law which would other-
5 wise prevent such assessment.”.

6 (d) ENERGY EFFICIENCY AND HISTORIC NATURE
7 TAKEN INTO ACCOUNT IN MAKING ALLOCATIONS.—Sub-
8 paragraph (C) of section 42(m)(1) (relating to plans for
9 allocation of credit among projects) is amended by striking
10 “and” at the end of clause (vii), by striking the period
11 at the end of clause (viii), and by adding at the end the
12 following new clauses:

13 “(ix) the energy efficiency of the
14 project, and

15 “(x) the historic nature of the
16 project.”.

17 (e) CONTINUED ELIGIBILITY FOR STUDENTS WHO
18 RECEIVED FOSTER CARE ASSISTANCE.—Clause (i) of sec-
19 tion 42(i)(3)(D) is amended by striking “or” at the end
20 of subclause (I), by redesignating subclause (II) as sub-
21 clause (III), and by inserting after subclause (I) the fol-
22 lowing new subclause:

23 “(II) a student who was pre-
24 viously under the care and placement
25 responsibility of the State agency re-

1 sponsible for administering a plan
2 under part B or part E of title IV of
3 the Social Security Act, or”.

4 (f) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as otherwise pro-
6 vided in this subsection, the amendments made by
7 this section shall apply to buildings placed in service
8 after the date of the enactment of this Act.

9 (2) REPEAL OF BONDING REQUIREMENT ON
10 DISPOSITION OF BUILDING.—The amendment made
11 by subsection (c) shall apply to—

12 (A) interests in buildings disposed after
13 the date of the enactment of this Act, and

14 (B) interests in buildings disposed of on or
15 before such date if—

16 (i) it is reasonably expected that such
17 building will continue to be operated as a
18 qualified low-income building (within the
19 meaning of section 42 of the Internal Rev-
20 enue Code of 1986) for the remaining com-
21 pliance period (within the meaning of such
22 section) with respect to such building, and

23 (ii) the taxpayer elects the application
24 of this subparagraph with respect to such
25 disposition.

1 (3) ENERGY EFFICIENCY AND HISTORIC NA-
 2 TURE TAKEN INTO ACCOUNT IN MAKING ALLOCA-
 3 TIONS.—The amendments made by subsection (d)
 4 shall apply to allocations made after December 31,
 5 2008.

6 (4) CONTINUED ELIGIBILITY FOR STUDENTS
 7 WHO RECEIVED FOSTER CARE ASSISTANCE.—The
 8 amendments made by subsection (e) shall apply to
 9 determinations made after the date of the enactment
 10 of this Act.

11 **PART 2—MODIFICATIONS TO TAX-EXEMPT**

12 **HOUSING BOND RULES**

13 **SEC. 111. RECYCLING OF TAX-EXEMPT DEBT FOR FINANC-** 14 **ING RESIDENTIAL RENTAL PROJECTS.**

15 (a) IN GENERAL.—Subsection (i) of section 146 (re-
 16 lating to treatment of refunding issues) is amended by
 17 adding at the end the following new paragraph:

18 “(6) TREATMENT OF CERTAIN RESIDENTIAL
 19 RENTAL PROJECT BONDS AS REFUNDING BONDS IR-
 20 RESPECTIVE OF OBLIGOR.—

21 “(A) IN GENERAL.—If, during the 6-
 22 month period beginning on the date of a repay-
 23 ment of a loan financed by an issue 95 percent
 24 or more of the net proceeds of which are used
 25 to provide projects described in section 142(d),

1 such repayment is used to provide a new loan
2 for any project so described, any bond which is
3 issued to refinance such issue shall be treated
4 as a refunding issue to the extent the principal
5 amount of such refunding issue does not exceed
6 the principal amount of the bonds refunded.

7 “(B) LIMITATIONS.—Subparagraph (A)
8 shall apply to only one refunding of the original
9 issue and only if—

10 “(i) the refunding issue is issued not
11 later than 4 years after the date on which
12 the original issue was issued,

13 “(ii) the latest maturity date of any
14 bond of the refunding issue is not later
15 than 34 years after the date on which the
16 refunded bond was issued, and

17 “(iii) the refunding issue is approved
18 in accordance with section 147(f) before
19 the issuance of the refunding issue.”.

20 (b) LOW-INCOME HOUSING CREDIT.—Clause (ii) of
21 section 42(h)(4)(A) is amended by inserting “or such fi-
22 nancing is refunded as described in section 146(i)(6)” be-
23 fore the period at the end.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to repayments of loans received
 3 after the date of the enactment of this Act.

4 **SEC. 112. COORDINATION OF CERTAIN RULES APPLICABLE**
 5 **TO LOW-INCOME HOUSING CREDIT AND**
 6 **QUALIFIED RESIDENTIAL RENTAL PROJECT**
 7 **EXEMPT FACILITY BONDS.**

8 (a) DETERMINATION OF NEXT AVAILABLE UNIT.—
 9 Paragraph (3) of section 142(d) (relating to current in-
 10 come determinations) is amended by adding at the end
 11 the following new subparagraph:

12 “(C) EXCEPTION FOR PROJECTS WITH RE-
 13 SPECT TO WHICH AFFORDABLE HOUSING CRED-
 14 IT IS ALLOWED.—In the case of a project with
 15 respect to which credit is allowed under section
 16 42, the second sentence of subparagraph (B)
 17 shall be applied by substituting ‘building (with-
 18 in the meaning of section 42)’ for ‘project’.”.

19 (b) STUDENTS.—Paragraph (2) of section 142(d)
 20 (relating to definitions and special rules) is amended by
 21 adding at the end the following new subparagraph:

22 “(C) STUDENTS.—Rules similar to the
 23 rules of 42(i)(3)(D) shall apply for purposes of
 24 this subsection.”.

1 (c) SINGLE-ROOM OCCUPANCY UNITS.—Paragraph
 2 (2) of section 142(d) (relating to definitions and special
 3 rules), as amended by this Act, is further amended by add-
 4 ing at the end the following new subparagraph:

5 “(D) SINGLE-ROOM OCCUPANCY UNITS.—A
 6 unit shall not fail to be treated as a residential
 7 unit merely because such unit is a single-room
 8 occupancy unit (within the meaning of section
 9 42).”.

10 (d) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to determinations of the status of
 12 qualified residential rental projects for periods beginning
 13 after the date of the enactment of this Act, with respect
 14 to bonds issued before, on, or after such date.

15 **PART 3—REFORMS RELATED TO THE LOW-IN-**
 16 **COME HOUSING CREDIT AND TAX-EXEMPT**
 17 **HOUSING BONDS**

18 **SEC. 121. HOLD HARMLESS FOR REDUCTIONS IN AREA ME-**
 19 **DIAN GROSS INCOME.**

20 (a) IN GENERAL.—Paragraph (2) of section 142(d)
 21 is amended by adding at the end the following new sub-
 22 paragraph:

23 “(C) HOLD HARMLESS FOR REDUCTIONS
 24 IN AREA MEDIAN GROSS INCOME.—

1 “(i) IN GENERAL.—Any determination
2 of area median gross income under sub-
3 paragraph (B) with respect to any project
4 for any calendar year after 2008 shall not
5 be less than the area median gross income
6 determined under such subparagraph with
7 respect to such project for the calendar
8 year preceding the calendar year for which
9 such determination is made.

10 “(ii) SPECIAL RULE FOR CERTAIN
11 CENSUS CHANGES.—In the case of a HUD
12 hold harmless impacted project, the area
13 median gross income with respect to such
14 project for any calendar year after 2008
15 (hereafter in this clause referred to as the
16 current calendar year) shall be the greater
17 of the amount determined without regard
18 to this clause or the sum of—

19 “(I) the area median gross in-
20 come determined under the HUD hold
21 harmless policy with respect to such
22 project for calendar year 2008, plus

23 “(II) any increase in the area
24 median gross income determined
25 under subparagraph (B) (determined

1 without regard to the HUD hold
2 harmless policy and this subpara-
3 graph) with respect to such project
4 for the current calendar year over the
5 area median gross income (as so de-
6 termined) with respect to such project
7 for calendar year 2008.

8 “(iii) HUD HOLD HARMLESS POL-
9 ICY.—The term ‘HUD hold harmless pol-
10 icy’ means the regulations under which a
11 policy similar to the rules of clause (i) ap-
12 plied to prevent a change in the method of
13 determining area median gross income
14 from resulting in a reduction in the area
15 median gross income determined with re-
16 spect to certain projects in calendar years
17 2007 and 2008.

18 “(iv) HUD HOLD HARMLESS IM-
19 PACTED PROJECT.—The term ‘HUD hold
20 harmless impacted project’ means any
21 project with respect to which area median
22 gross income was determined under sub-
23 paragraph (B) for calendar year 2007 or
24 2008 if such determination would have

1 been less but for the HUD hold harmless
2 policy.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to determinations of area median
5 gross income for calendar years after 2008.

6 **SEC. 122. EXCEPTION TO ANNUAL CURRENT INCOME DE-**
7 **TERMINATION REQUIREMENT WHERE DE-**
8 **TERMINATION NOT RELEVANT.**

9 (a) **IN GENERAL.**—Subparagraph (A) of section
10 142(d)(3) is amended by adding at the end the following
11 new sentence: “The preceding sentence shall not apply
12 with respect to any project for any year if during such
13 year no residential unit in the project is occupied by a
14 new resident whose income exceeds the applicable income
15 limit.”

16 (b) **EFFECTIVE DATE.**—The amendment made by
17 this section shall apply to years ending after the date of
18 the enactment of this Act.

19 **Subtitle B—Single Family Housing**

20 **SEC. 131. FIRST-TIME HOMEBUYER CREDIT.**

21 (a) **IN GENERAL.**—Subpart C of part IV of sub-
22 chapter A of chapter 1 is amended by redesignating sec-
23 tion 36 as section 37 and by inserting after section 35
24 the following new section:

1 **“SEC. 36. FIRST-TIME HOMEBUYER CREDIT.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
3 dividual who is a first-time homebuyer of a principal resi-
4 dence in the United States during a taxable year, there
5 shall be allowed as a credit against the tax imposed by
6 this subtitle for such taxable year an amount equal to 10
7 percent of the purchase price of the residence.

8 “(b) LIMITATIONS.—

9 “(1) DOLLAR LIMITATION.—

10 “(A) IN GENERAL.—Except as otherwise
11 provided in this paragraph, the credit allowed
12 under subsection (a) shall not exceed \$7,500.

13 “(B) MARRIED INDIVIDUALS FILING SEPA-
14 RATELY.—In the case of a married individual
15 filing a separate return, subparagraph (A) shall
16 be applied by substituting ‘\$3,750’ for ‘\$7,500’.

17 “(C) OTHER INDIVIDUALS.—If two or
18 more individuals who are not married purchase
19 a principal residence, the amount of the credit
20 allowed under subsection (a) shall be allocated
21 among such individuals in such manner as the
22 Secretary may prescribe, except that the total
23 amount of the credits allowed to all such indi-
24 viduals shall not exceed \$7,500.

25 “(2) LIMITATION BASED ON MODIFIED AD-
26 JUSTED GROSS INCOME.—

1 “(A) IN GENERAL.—The amount allowable
 2 as a credit under subsection (a) (determined
 3 without regard to this paragraph) for the tax-
 4 able year shall be reduced (but not below zero)
 5 by the amount which bears the same ratio to
 6 the amount which is so allowable as—

7 “(i) the excess (if any) of—

8 “(I) the taxpayer’s modified ad-
 9 justed gross income for such taxable
 10 year, over

11 “(II) \$70,000 (\$110,000 in the
 12 case of a joint return), bears to

13 “(ii) \$20,000.

14 “(B) MODIFIED ADJUSTED GROSS IN-
 15 COME.—For purposes of subparagraph (A), the
 16 term ‘modified adjusted gross income’ means
 17 the adjusted gross income of the taxpayer for
 18 the taxable year increased by any amount ex-
 19 cluded from gross income under section 911,
 20 931, or 933.

21 “(c) DEFINITIONS.—For purposes of this section—

22 “(1) FIRST-TIME HOMEBUYER.—The term
 23 ‘first-time homebuyer’ means any individual if such
 24 individual (and if married, such individual’s spouse)
 25 had no present ownership interest in a principal resi-

1 dence during the 3-year period ending on the date
2 of the purchase of the principal residence to which
3 this section applies.

4 “(2) PRINCIPAL RESIDENCE.—The term ‘prin-
5 cipal residence’ has the same meaning as when used
6 in section 121.

7 “(3) PURCHASE.—

8 “(A) IN GENERAL.—The term ‘purchase’
9 means any acquisition, but only if—

10 “(i) the property is not acquired from
11 a person related to the person acquiring it,
12 and

13 “(ii) the basis of the property in the
14 hands of the person acquiring it is not de-
15 termined—

16 “(I) in whole or in part by ref-
17 erence to the adjusted basis of such
18 property in the hands of the person
19 from whom acquired, or

20 “(II) under section 1014(a) (re-
21 lating to property acquired from a de-
22 cedent).

23 “(B) CONSTRUCTION.—A residence which
24 is constructed by the taxpayer shall be treated

1 as purchased by the taxpayer on the date the
2 taxpayer first occupies such residence.

3 “(4) PURCHASE PRICE.—The term ‘purchase
4 price’ means the adjusted basis of the principal resi-
5 dence on the date such residence is purchased.

6 “(5) RELATED PERSONS.—A person shall be
7 treated as related to another person if the relation-
8 ship between such persons would result in the dis-
9 allowance of losses under section 267 or 707(b) (but,
10 in applying section 267(b) and (c) for purposes of
11 this section, paragraph (4) of section 267(c) shall be
12 treated as providing that the family of an individual
13 shall include only his spouse, ancestors, and lineal
14 descendants).

15 “(d) EXCEPTIONS.—No credit under subsection (a)
16 shall be allowed to any taxpayer for any taxable year with
17 respect to the purchase of a residence if—

18 “(1) a credit under section 1400C (relating to
19 first-time homebuyer in the District of Columbia) is
20 allowable to the taxpayer (or the taxpayer’s spouse)
21 for such taxable year or any prior taxable year,

22 “(2) the residence is financed by the proceeds
23 of a qualified mortgage issue the interest on which
24 is exempt from tax under section 103,

25 “(3) the taxpayer is a nonresident alien, or

1 “(4) the taxpayer disposes of such residence (or
2 such residence ceases to be the principal residence of
3 the taxpayer (and, if married, the taxpayer’s
4 spouse)) before the close of such taxable year.

5 “(e) REPORTING.—If the Secretary requires informa-
6 tion reporting under section 6045 by a person described
7 in subsection (e)(2) thereof to verify the eligibility of tax-
8 payers for the credit allowable by this section, the excep-
9 tion provided by section 6045(e) shall not apply.

10 “(f) RECAPTURE OF CREDIT.—

11 “(1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, if a credit under subsection
13 (a) is allowed to a taxpayer, the tax imposed by this
14 chapter shall be increased by $6\frac{2}{3}$ percent of the
15 amount of such credit for each taxable year in the
16 recapture period.

17 “(2) ACCELERATION OF RECAPTURE.—If a tax-
18 payer disposes of the principal residence with respect
19 to which a credit was allowed under subsection (a)
20 (or such residence ceases to be the principal resi-
21 dence of the taxpayer (and, if married, the tax-
22 payer’s spouse)) before the end of the recapture pe-
23 riod—

24 “(A) the tax imposed by this chapter for
25 the taxable year of such disposition or ces-

sation, shall be increased by the excess of the amount of the credit allowed over the amounts of tax imposed by paragraph (1) for preceding taxable years, and

“(B) paragraph (1) shall not apply with respect to such credit for such taxable year or any subsequent taxable year .

“(3) LIMITATION BASED ON GAIN.—In the case of the sale of the principal residence to a person who is not related to the taxpayer, the increase in tax determined under paragraph (2) shall not exceed the amount of gain (if any) on such sale. Solely for purposes of the preceding sentence, the adjusted basis of such residence shall be reduced by the amount of the credit allowed under subsection (a) to the extent not previously recaptured under paragraph (1).

“(4) EXCEPTIONS.—

“(A) DEATH OF TAXPAYER.—Paragraphs (1) and (2) shall not apply to any taxable year ending after the date of the taxpayer’s death.

“(B) INVOLUNTARY CONVERSION.—Paragraph (2) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new prin-

1 ciproal residence during the 2-year period begin-
2 ning on the date of the disposition or cessation
3 referred to in paragraph (2). Paragraph (2)
4 shall apply to such new principal residence dur-
5 ing the recapture period in the same manner as
6 if such new principal residence were the con-
7 verted residence.

8 “(C) TRANSFERS BETWEEN SPOUSES OR
9 INCIDENT TO DIVORCE.—In the case of a trans-
10 fer of a residence to which section 1041(a) ap-
11 plies—

12 “(i) paragraph (2) shall not apply to
13 such transfer, and

14 “(ii) in the case of taxable years end-
15 ing after such transfer, paragraphs (1) and
16 (2) shall apply to the transferee in the
17 same manner as if such transferee were
18 the transferor (and shall not apply to the
19 transferor).

20 “(5) JOINT RETURNS.—In the case of a credit
21 allowed under subsection (a) with respect to a joint
22 return, half of such credit shall be treated as having
23 been allowed to each individual filing such return for
24 purposes of this subsection.

1 “(6) RECAPTURE PERIOD.—For purposes of
 2 this subsection, the term ‘recapture period’ means
 3 the 15 taxable years beginning with the second tax-
 4 able year following the taxable year in which the
 5 purchase of the principal residence for which a cred-
 6 it is allowed under subsection (a) was made.

7 “(g) APPLICATION OF SECTION.—This section shall
 8 only apply to a principal residence purchased by the tax-
 9 payer after ____, and before April 1, 2009.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 26(b)(2) is amended by striking
 12 “and” at the end of subparagraph (U), by striking
 13 the period and inserting “, and” and the end of sub-
 14 paragraph (V), and by inserting after subparagraph
 15 (V) the following new subparagraph:

16 “(W) section 36(f) (relating to recapture of
 17 homebuyer credit).”.

18 (2) Section 6211(b)(4)(A) is amended by strik-
 19 ing “ and 35,” and inserting “35, 36,”.

20 (3) Section 1324(b)(2) of title 31, United
 21 States Code, is amended by inserting “, 36,” after
 22 “section 35”.

23 (4) The table of sections for subpart C of part
 24 IV of subchapter A of chapter 1 is amended by re-
 25 designating the item relating to section 36 as an

1 item relating to section 37 and by inserting before
 2 such item the following new item:

“Sec. 36. First-time homebuyer credit.”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to ____.

5 **SEC. 132. ADDITIONAL STANDARD DEDUCTION FOR REAL**
 6 **PROPERTY TAXES FOR NONITEMIZERS.**

7 (a) IN GENERAL.—Section 63(c)(1) (defining stand-
 8 ard deduction) is amended by striking “and” at the end
 9 of subparagraph (A), by striking the period at the end
 10 of subparagraph (B) and inserting “, and”, and by adding
 11 at the end the following new subparagraph:

12 “(C) in the case of any taxable year begin-
 13 ning in 2008, the real property tax deduction.”.

14 (b) DEFINITION.—Section 63(c) is amended by add-
 15 ing at the end the following new paragraph:

16 “(8) REAL PROPERTY TAX DEDUCTION.—For
 17 purposes of paragraph (1), the real property tax de-
 18 duction is so much of the amount of State and local
 19 real property taxes (within the meaning of section
 20 164) paid or accrued by the taxpayer during the tax-
 21 able year which do not exceed \$350 (\$700 in the
 22 case of a joint return).”.

23 (c) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to taxable years beginning after
 25 December 31, 2007.

1 **Subtitle C—General Provisions**

2 **SEC. 141. TEMPORARY LIBERALIZATION OF TAX-EXEMPT** 3 **HOUSING BOND RULES.**

4 (a) TEMPORARY INCREASE IN VOLUME CAP.—

5 (1) IN GENERAL.—Subsection (d) of section
 6 146 is amended by adding at the end the following
 7 new paragraph:

8 “(5) INCREASE AND SET ASIDE FOR HOUSING
 9 BONDS FOR 2008.—

10 “(A) INCREASE FOR 2008.—In the case of
 11 calendar year 2008, the State ceiling for each
 12 State shall be increased by an amount equal to
 13 \$10,000,000,000 multiplied by a fraction—

14 “(i) the numerator of which is the
 15 population of such State, and

16 “(ii) the denominator of which is the
 17 total population of all States.

18 “(B) SET ASIDE.—

19 “(i) IN GENERAL.—Any amount of
 20 the State ceiling for any State which is at-
 21 tributable to an increase under this para-
 22 graph shall be allocated solely for one or
 23 more qualified housing issues.

1 “(ii) QUALIFIED HOUSING ISSUE.—

2 For purposes of this paragraph, the term

3 ‘qualified housing issue’ means—

4 “(I) an issue described in section
5 142(a)(7) (relating to qualified resi-
6 dential rental projects), or

7 “(II) a qualified mortgage issue
8 (determined by substituting ‘12-month
9 period’ for ‘42-month period’ each
10 place it appears in section
11 143(a)(2)(D)(i)).”.

12 (2) CARRYFORWARD OF UNUSED LIMITA-
13 TIONS.—Subsection (f) of section 146 is amended by
14 adding at the end the following new paragraph:

15 “(6) SPECIAL RULES FOR INCREASED VOLUME
16 CAP UNDER SUBSECTION (d)(5).—No amount which
17 is attributable to the increase under subsection
18 (d)(5) may be used—

19 “(A) for any issue other than a qualified
20 housing issue (as defined in subsection (d)(5)),
21 or

22 “(B) to issue any bond after calendar year
23 2010.”.

1 (b) TEMPORARY RULE FOR USE OF QUALIFIED
2 MORTGAGE BONDS PROCEEDS FOR SUBPRIME REFI-
3 NANCING LOANS.—

4 (1) IN GENERAL.—Section 143(k) (relating to
5 other definitions and special rules) is amended by
6 adding at the end the following new paragraph:

7 “(12) SPECIAL RULES FOR SUBPRIME
8 REFINANCINGS.—

9 “(A) IN GENERAL.—Notwithstanding the
10 requirements of subsection (i)(1), the proceeds
11 of a qualified mortgage issue may be used to re-
12 finance a mortgage on a residence which was
13 originally financed by the mortgagor through a
14 qualified subprime loan.

15 “(B) SPECIAL RULES.—In applying sub-
16 paragraph (A) to any refinancing—

17 “(i) subsection (a)(2)(D)(i) shall be
18 applied by substituting ‘12-month period’
19 for ‘42-month period’ each place it ap-
20 pears,

21 “(ii) subsection (d) (relating to 3-year
22 requirement) shall not apply, and

23 “(iii) subsection (e) (relating to pur-
24 chase price requirement) shall be applied
25 by using the market value of the residence

1 at the time of refinancing in lieu of the ac-
 2 quisition cost.

3 “(C) QUALIFIED SUBPRIME LOAN.—The
 4 term ‘qualified subprime loan’ means an adjust-
 5 able rate single-family residential mortgage loan
 6 made after December 31, 2001, and before
 7 January 1, 2008, that the bond issuer deter-
 8 mines would be reasonably likely to cause finan-
 9 cial hardship to the borrower if not refinanced.

10 “(D) TERMINATION.—This paragraph
 11 shall not apply to any bonds issued after De-
 12 cember 31, 2010.”.

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to bonds issued after the date of
 15 the enactment of this Act.

16 **SEC. 142. REPEAL OF ALTERNATIVE MINIMUM TAX LIMITA-**
 17 **TIONS ON TAX-EXEMPT HOUSING BONDS,**
 18 **LOW-INCOME HOUSING TAX CREDIT, AND RE-**
 19 **HABILITATION CREDIT.**

20 (a) TAX-EXEMPT INTEREST ON CERTAIN HOUSING
 21 BONDS EXEMPTED FROM ALTERNATIVE MINIMUM
 22 TAX.—

23 (1) IN GENERAL.—Subparagraph (C) of section
 24 57(a)(5) (relating to specified private activity bonds)
 25 is amended by redesignating clauses (iii) and (iv) as

1 clauses (iv) and (v), respectively, and by inserting
2 after clause (ii) the following new clause:

3 “(iii) EXCEPTION FOR CERTAIN HOUS-
4 ING BONDS.—For purposes of clause (i),
5 the term ‘private activity bond’ shall not
6 include any bond issued after the date of
7 the enactment of this clause if such bond
8 is—

9 “(I) an exempt facility bond
10 issued as part of an issue 95 percent
11 or more of the net proceeds of which
12 are to be used to provide qualified res-
13 idential rental projects (as defined in
14 section 142(d)),

15 “(II) a qualified mortgage bond
16 (as defined in section 143(a)), or

17 “(III) a qualified veterans’ mort-
18 gage bond (as defined in section
19 143(b)).

20 The preceding sentence shall not apply to
21 any refunding bond unless such preceding
22 sentence applied to the refunded bond (or
23 in the case of a series of refundings, the
24 original bond).”.

1 (2) NO ADJUSTMENT TO ADJUSTED CURRENT
2 EARNINGS.—Subparagraph (B) of section 56(g)(4)
3 is amended by adding at the end the following new
4 clause:

5 “(iii) TAX EXEMPT INTEREST ON CER-
6 TAIN HOUSING BONDS.—Clause (i) shall
7 not apply in the case of any interest on a
8 bond to which section 57(a)(5)(C)(iii) ap-
9 plies.”.

10 (b) ALLOWANCE OF LOW-INCOME HOUSING CREDIT
11 AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph
12 (B) of section 38(c)(4) (relating to specified credits) is
13 amended by redesignating clauses (ii) through (iv) as
14 clauses (iii) through (v) and inserting after clause (i) the
15 following new clause:

16 “(ii) the credit determined under sec-
17 tion 42 to the extent attributable to build-
18 ings placed in service after December 31,
19 2007,”.

20 (c) ALLOWANCE OF REHABILITATION CREDIT
21 AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph
22 (B) of section 38(c)(4), as amended by subsection (b), is
23 amended by striking “and” at the end of clause (iv), by
24 redesignating clause (v) as clause (vi), and by inserting
25 after clause (iv) the following new clause:

1 “(v) the credit determined under sec-
 2 tion 47 to the extent attributable to quali-
 3 fied rehabilitation expenditures properly
 4 taken into account for periods after De-
 5 cember 31, 2007, and”.

6 (d) EFFECTIVE DATE.—

7 (1) HOUSING BONDS.—The amendments made
 8 by subsection (a) shall apply to bonds issued after
 9 the date of the enactment of this Act.

10 (2) LOW INCOME HOUSING CREDIT.—The
 11 amendments made by subsection (b) shall apply to
 12 credits determined under section 42 of the Internal
 13 Revenue Code of 1986 to the extent attributable to
 14 buildings placed in service after December 31, 2007.

15 (3) REHABILITATION CREDIT.—The amend-
 16 ments made by subsection (c) shall apply to credits
 17 determined under section 47 of the Internal Revenue
 18 Code of 1986 to the extent attributable to qualified
 19 rehabilitation expenditures properly taken into ac-
 20 count for periods after December 31, 2007.

21 **SEC. 143. BONDS GUARANTEED BY FEDERAL HOME LOAN**
 22 **BANKS ELIGIBLE FOR TREATMENT AS TAX-**
 23 **EXEMPT BONDS.**

24 (a) IN GENERAL.—Subparagraph (A) of section
 25 149(b)(3) of the Internal Revenue Code of 1986 (relating

1 to exceptions for certain insurance programs) is amended
 2 by striking “or” at the end of clause (ii), by striking the
 3 period at the end of clause (iii) and inserting “, or” and
 4 by adding at the end the following new clause:

5 “(iv) any guarantee by a Federal
 6 home loan bank made in connection with
 7 the original issuance of a bond during the
 8 period beginning on the date of the enact-
 9 ment of this Act and ending on December
 10 31, 2010 (or a renewal or extension of a
 11 guarantee so made).”.

12 (b) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to guarantees made after the date
 14 of the enactment of this Act.

15 **SEC. 144. MODIFICATION OF RULES PERTAINING TO**
 16 **FIRPTA NONFOREIGN AFFIDAVITS.**

17 (a) IN GENERAL.—Subsection (b) of section 1445
 18 (relating to exemptions) is amended by adding at the end
 19 the following:

20 “(9) ALTERNATIVE PROCEDURE FOR FUR-
 21 NISHING NONFOREIGN AFFIDAVIT.—For purposes of
 22 paragraphs (2) and (7)—

23 “(A) IN GENERAL.—Paragraph (2) shall
 24 be treated as applying to a transaction if, in

1 connection with a disposition of a United States
2 real property interest—

3 “(i) the affidavit specified in para-
4 graph (2) is furnished to a qualified sub-
5 stitute, and

6 “(ii) the qualified substitute furnishes
7 a statement to the transferee stating,
8 under penalty of perjury, that the qualified
9 substitute has such affidavit in his posses-
10 sion.

11 “(B) REGULATIONS.—The Secretary shall
12 prescribe such regulations as may be necessary
13 or appropriate to carry out this paragraph.”.

14 (b) QUALIFIED SUBSTITUTE.—Subsection (f) of sec-
15 tion 1445 (relating to definitions) is amended by adding
16 at the end the following new paragraph:

17 “(6) QUALIFIED SUBSTITUTE.—The term
18 ‘qualified substitute’ means, with respect to a dis-
19 position of a United States real property interest—

20 “(A) the person (including any attorney or
21 title company) responsible for closing the trans-
22 action, other than the transferor’s agent, and

23 “(B) the transferee’s agent.”.

24 (c) EXEMPTION NOT TO APPLY IF KNOWLEDGE OR
25 NOTICE THAT AFFIDAVIT OR STATEMENT IS FALSE.—

1 (1) IN GENERAL.—Paragraph (7) of section
2 1445(b) (relating to special rules for paragraphs (2)
3 and (3)) is amended to read as follows:

4 “(7) SPECIAL RULES FOR PARAGRAPHS (2), (3),
5 AND (9).—Paragraph (2), (3), or (9) (as the case
6 may be) shall not apply to any disposition—

7 “(A) if—

8 “(i) the transferee or qualified sub-
9 stitute has actual knowledge that the affi-
10 davit referred to in such paragraph, or the
11 statement referred to in paragraph
12 (9)(A)(ii), is false, or

13 “(ii) the transferee or qualified sub-
14 stitute receives a notice (as described in
15 subsection (d)) from a transferor’s agent,
16 transferee’s agent, or qualified substitute
17 that such affidavit or statement is false, or

18 “(B) if the Secretary by regulations re-
19 quires the transferee or qualified substitute to
20 furnish a copy of such affidavit or statement to
21 the Secretary and the transferee or qualified
22 substitute fails to furnish a copy of such affi-
23 davit or statement to the Secretary at such
24 time and in such manner as required by such
25 regulations.”.

1 (2) LIABILITY.—

2 (A) NOTICE.—Paragraph (1) of section
3 1445(d) (relating to notice of false affidavit;
4 foreign corporations) is amended to read as fol-
5 lows:

6 “(1) NOTICE OF FALSE AFFIDAVIT; FOREIGN
7 CORPORATIONS.—If—

8 “(A) the transferor furnishes the trans-
9 feree or qualified substitute an affidavit de-
10 scribed in paragraph (2) of subsection (b) or a
11 domestic corporation furnishes the transferee
12 an affidavit described in paragraph (3) of sub-
13 section (b), and

14 “(B) in the case of—

15 “(i) any transferor’s agent—

16 “(I) such agent has actual knowl-
17 edge that such affidavit is false, or

18 “(II) in the case of an affidavit
19 described in subsection (b)(2) fur-
20 nished by a corporation, such corpora-
21 tion is a foreign corporation, or

22 “(ii) any transferee’s agent or quali-
23 fied substitute, such agent or substitute
24 has actual knowledge that such affidavit is
25 false,

1 such agent or qualified substitute shall so notify
2 the transferee at such time and in such manner
3 as the Secretary shall require by regulations.”.

4 (B) FAILURE TO FURNISH NOTICE.—Para-
5 graph (2) of section 1445(d) (relating to failure
6 to furnish notice) is amended to read as follows:

7 “(2) FAILURE TO FURNISH NOTICE.—

8 “(A) IN GENERAL.—If any transferor’s
9 agent, transferee’s agent, or qualified substitute
10 is required by paragraph (1) to furnish notice,
11 but fails to furnish such notice at such time or
12 times and in such manner as may be required
13 by regulations, such agent or substitute shall
14 have the same duty to deduct and withhold that
15 the transferee would have had if such agent or
16 substitute had complied with paragraph (1).

17 “(B) LIABILITY LIMITED TO AMOUNT OF
18 COMPENSATION.—An agent’s or substitute’s li-
19 ability under subparagraph (A) shall be limited
20 to the amount of compensation the agent or
21 substitute derives from the transaction.”.

22 (C) CONFORMING AMENDMENT.—The
23 heading for section 1445(d) is amended by
24 striking “OR TRANSFEE’S AGENTS” and in-

1 serting “, TRANSFEREE’S AGENTS, OR QUALI-
2 FIED SUBSTITUTES”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to dispositions of United States
5 real property interests after the date of the enactment of
6 this Act.

7 **SEC. 145. MODIFICATION OF DEFINITION OF TAX-EXEMPT**
8 **USE PROPERTY FOR PURPOSES OF THE RE-**
9 **HABILITATION CREDIT.**

10 (a) IN GENERAL.—Clause (I) of section
11 47(c)(2)(B)(v) is amended by striking “section 168(h)”
12 and inserting “section 168(h), except that ‘50 percent’
13 shall be substituted for ‘35 percent’ in paragraph
14 (1)(B)(iii) thereof”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to expenditures properly taken into
17 account for periods after December 31, 2007.

1 **TITLE II—REFORMS RELATED**
 2 **TO REAL ESTATE INVEST-**
 3 **MENT TRUSTS**

4 **Subtitle A—Foreign Currency and**
 5 **Other Qualified Activities**

6 **SEC. 201. REVISIONS TO REIT INCOME TESTS.**

7 (a) ADDITION OF PERMISSIBLE INCOME CAT-
 8 EGORIES.—Section 856(c) (relating to limitations) is
 9 amended—

10 (1) by striking “and” at the end of paragraph
 11 (2)(G) and by inserting after paragraph (2)(H) the
 12 following new subparagraphs:

13 “(I) passive foreign exchange gains; and

14 “(J) any other item of income or gain as
 15 determined by the Secretary;”, and

16 (2) by striking “and” at the end of paragraphs
 17 (3)(H) and (3)(I) and by inserting after paragraph
 18 (3)(I) the following new subparagraphs:

19 “(J) real estate foreign exchange gains;

20 and

21 “(K) any other item of income or gain as
 22 determined by the Secretary; and”.

23 (b) RULES REGARDING FOREIGN CURRENCY TRANS-
 24 ACTIONS.—Section 856 (defining real estate investment

1 trust) is amended by adding at the end the following new
 2 subsection:

3 “(n) RULES REGARDING FOREIGN CURRENCY
 4 TRANSACTIONS.—With respect to any taxable year—

5 “(1) REAL ESTATE FOREIGN EXCHANGE
 6 GAINS.—For purposes of subsection (c)(3)(J), the
 7 term ‘real estate foreign exchange gains’ means—

8 “(A) foreign currency gains (as defined in
 9 section 988(b)(1)) which are attributable to—

10 “(i) any item described in subsection
 11 (c)(3) (other than in subparagraph (J)
 12 thereof),

13 “(ii) the acquisition or ownership of
 14 obligations secured by mortgages on real
 15 property or on interests in real property
 16 (other than foreign currency gains attrib-
 17 utable to any item described in clause (i)),
 18 or

19 “(iii) becoming or being the obligor
 20 under obligations secured by mortgages on
 21 real property or on interests in real prop-
 22 erty (other than foreign currency gains at-
 23 tributable to any item described in clause
 24 (i)),

1 “(B) gains described in section 987 attrib-
 2 utable to a qualified business unit (as defined
 3 by section 989) of the real estate investment
 4 trust, but only if such qualified business unit
 5 meets the requirements under—

6 “(i) subsection (c)(3) (without regard
 7 to subparagraph (J) thereof) for the tax-
 8 able year, and

9 “(ii) subsection (c)(4)(A) at the close
 10 of each quarter that the real estate invest-
 11 ment trust has directly or indirectly held
 12 the qualified business unit, and

13 “(C) any other foreign currency gains as
 14 determined by the Secretary.

15 “(2) PASSIVE FOREIGN EXCHANGE GAINS.—For
 16 purposes of subsection (c)(2)(I), the term ‘passive
 17 foreign exchange gains’ means—

18 “(A) real estate foreign exchange gains,

19 “(B) foreign currency gains (as defined in
 20 section 988(b)(1)) which are not described in
 21 subparagraph (A) and which are attributable to
 22 any item described in subsection (c)(2) (other
 23 than in subparagraph (I) thereof), and

24 “(C) any other foreign currency gains as
 25 determined by the Secretary.”.

1 (c) ADDITION TO REIT HEDGING RULE.—Subpara-
2 graph (G) of section 856(c)(5) is amended to read as fol-
3 lows:

4 “(G) TREATMENT OF CERTAIN HEDGING
5 INSTRUMENTS.—Except to the extent as deter-
6 mined by the Secretary—

7 “(i) any income of a real estate in-
8 vestment trust from a hedging transaction
9 (as defined in clause (ii) or (iii) of section
10 1221(b)(2)(A)) which is clearly identified
11 pursuant to section 1221(a)(7), including
12 gain from the sale or disposition of such a
13 transaction, shall not constitute gross in-
14 come under paragraphs (2) and (3) to the
15 extent that the transaction hedges any in-
16 debtedness incurred or to be incurred by
17 the trust to acquire or carry real estate as-
18 sets, and

19 “(ii) any income of a real estate in-
20 vestment trust from a transaction entered
21 into by the trust primarily to manage risk
22 of currency fluctuations with respect to
23 any item described in paragraph (2) or (3),
24 including gain from the termination of
25 such a transaction, shall not constitute

1 gross income under paragraphs (2) and
 2 (3), but only if such transaction is clearly
 3 identified as such before the close of the
 4 day on which it was acquired, originated,
 5 or entered into (or such other time as the
 6 Secretary may prescribe).”.

7 (d) **AUTHORITY TO EXCLUDE ITEMS OF INCOME**
 8 **FROM REIT INCOME TESTS.**—Section 856(c)(5) is
 9 amended by adding at the end the following new subpara-
 10 graph:

11 “(H) **SECRETARIAL AUTHORITY TO EX-**
 12 **CLUDE OTHER ITEMS OF INCOME.**—The Sec-
 13 retary is authorized to determine whether any
 14 item of income or gain which does not otherwise
 15 qualify under paragraph (2) or (3) may be con-
 16 sidered as not constituting gross income solely
 17 for purposes of this part.”.

18 **SEC. 202. REVISIONS TO REIT ASSET TESTS.**

19 (a) **CLARIFICATION OF VALUATION TEST.**—The first
 20 sentence in the matter following section
 21 856(c)(4)(B)(iii)(III) is amended by inserting “(including
 22 a discrepancy caused solely by the change in the foreign
 23 currency exchange rate used to value a foreign asset)”
 24 after “such requirements”.

1 (b) CLARIFICATION OF PERMISSIBLE ASSET CAT-
 2 EGORY.—Section 856(c)(5), as amended by section
 3 301(d), is amended by adding at the end the following new
 4 subparagraph:

5 “(I) CASH.—The term ‘cash’ includes for-
 6 eign currency if the real estate investment trust
 7 or its qualified business unit (as defined in sec-
 8 tion 989) uses such foreign currency as its
 9 functional currency (as defined in section
 10 985(b)).”.

11 **SEC. 203. CONFORMING FOREIGN CURRENCY REVISIONS.**

12 (a) NET INCOME FROM FORECLOSURE PROPERTY.—
 13 Clause (i) of section 857(b)(4)(B) is amended to read as
 14 follows:

15 “(i) gain (including any foreign cur-
 16 rency gain, as defined in section 988(b)(1))
 17 from the sale or other disposition of fore-
 18 closure property described in section
 19 1221(a)(1) and the gross income for the
 20 taxable year derived from foreclosure prop-
 21 erty (as defined in section 856(e)), but
 22 only to the extent such gross income is not
 23 described in (or, in the case of foreign cur-
 24 rency gain, not attributable to gross in-

1 come described in) section 856(c)(3) other
 2 than subparagraph (F) thereof, over”.

3 (b) NET INCOME FROM PROHIBITED TRANS-
 4 ACTIONS.—Clause (i) of section 857(b)(6)(B) is amended
 5 to read as follows:

6 “(i) the term ‘net income derived from
 7 prohibited transactions’ means the excess
 8 of the gain (including any foreign currency
 9 gain, as defined in section 988(b)(1)) from
 10 prohibited transactions over the deductions
 11 (including any foreign currency loss, as de-
 12 fined in section 988(b)(2)) allowed by this
 13 chapter which are directly connected with
 14 prohibited transactions;”.

15 **Subtitle B—Taxable REIT** 16 **Subsidiaries**

17 **SEC. 211. CONFORMING TAXABLE REIT SUBSIDIARY ASSET**
 18 **TEST.**

19 Section 856(c)(4)(B)(ii) is amended by striking “20
 20 percent” and inserting “25 percent”.

21 **Subtitle C—Dealer Sales**

22 **SEC. 221. HOLDING PERIOD UNDER SAFE HARBOR.**

23 Section 857(b)(6) (relating to income from prohibited
 24 transactions) is amended—

- 1 (1) by striking “4 years” in subparagraphs
- 2 (C)(i), (C)(iv), and (D)(i) and inserting “2 years”,
- 3 (2) by striking “4-year period” in subpara-
- 4 graphs (C)(ii), (D)(ii), and (D)(iii) and inserting “2-
- 5 year period”, and
- 6 (3) by striking “real estate asset” and all that
- 7 follows through “if” in the matter preceding clause
- 8 (i) of subparagraphs (C) and (D), respectively, and
- 9 inserting “real estate asset (as defined in section
- 10 856(c)(5)(B)) and which is described in section
- 11 1221(a)(1) if”.

12 **SEC. 222. DETERMINING VALUE OF SALES UNDER SAFE**
 13 **HARBOR.**

14 Section 857(b)(6) is amended—

- 15 (1) by striking the semicolon at the end of sub-
- 16 paragraph (C)(iii) and inserting “, or (III) the fair
- 17 market value of property (other than sales of fore-
- 18 closure property or sales to which section 1033 ap-
- 19 plies) sold during the taxable year does not exceed
- 20 10 percent of the fair market value of all of the as-
- 21 sets of the trust as of the beginning of the taxable
- 22 year;”, and
- 23 (2) by adding “or” at the end of subclause (II)
- 24 of subparagraph (D)(iv) and by adding at the end
- 25 of such subparagraph the following new subclause:

“(III) the fair market value of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the fair market value of all of the assets of the trust as of the beginning of the taxable year,”.

Subtitle D—Health Care REITs

SEC. 231. CONFORMITY FOR HEALTH CARE FACILITIES.

(a) RELATED PARTY RENTALS.—Subparagraph (B) of section 856(d)(8) (relating to special rule for taxable REIT subsidiaries) is amended to read as follows:

“(B) EXCEPTION FOR CERTAIN LODGING FACILITIES AND HEALTH CARE PROPERTY.—

The requirements of this subparagraph are met with respect to an interest in real property which is a qualified lodging facility or a qualified health care property (as defined in subsection (e)(6)(D)(i)) leased by the trust to a taxable REIT subsidiary of the trust if the property is operated on behalf of such subsidiary by a person who is an eligible independent contractor. For purposes of this section, a taxable REIT subsidiary is not considered to be operating or managing a qualified

1 health care property or qualified lodging facility
2 solely because it directly or indirectly possesses
3 a license, permit or similar instrument enabling
4 it to do so.”.

5 (b) ELIGIBLE INDEPENDENT CONTRACTOR.—Sub-
6 paragraphs (A) and (B) of section 856(d)(9) (relating to
7 eligible independent contractor) are amended to read as
8 follows:

9 “(A) IN GENERAL.—The term ‘eligible
10 independent contractor’ means, with respect to
11 any qualified lodging facility or qualified health
12 care property (as defined in subsection
13 (e)(6)(D)(i)), any independent contractor if, at
14 the time such contractor enters into a manage-
15 ment agreement or other similar service con-
16 tract with the taxable REIT subsidiary to oper-
17 ate such qualified lodging facility or qualified
18 health care property, such contractor (or any
19 related person) is actively engaged in the trade
20 or business of operating qualified lodging facili-
21 ties or qualified health care properties, respec-
22 tively, for any person who is not a related per-
23 son with respect to the real estate investment
24 trust or the taxable REIT subsidiary.

1 “(B) SPECIAL RULES.—Solely for purposes
2 of this paragraph and paragraph (8)(B), a per-
3 son shall not fail to be treated as an inde-
4 pendent contractor with respect to any qualified
5 lodging facility or qualified health care property
6 (as so defined) by reason of the following:

7 “(i) The taxable REIT subsidiary
8 bears the expenses for the operation of
9 such qualified lodging facility or qualified
10 health care property pursuant to the man-
11 agement agreement or other similar service
12 contract.

13 “(ii) The taxable REIT subsidiary re-
14 ceives the revenues from the operation of
15 such qualified lodging facility or qualified
16 health care property, net of expenses for
17 such operation and fees payable to the op-
18 erator pursuant to such agreement or con-
19 tract.

20 “(iii) The real estate investment trust
21 receives income from such person with re-
22 spect to another property that is attrib-
23 utable to a lease of such other property to
24 such person that was in effect as of the
25 later of—

1 “(I) January 1, 1999, or
 2 “(II) the earliest date that any
 3 taxable REIT subsidiary of such trust
 4 entered into a management agreement
 5 or other similar service contract with
 6 such person with respect to such
 7 qualified lodging facility or qualified
 8 health care property.”.

9 (c) TAXABLE REIT SUBSIDIARIES.—The last sen-
 10 tence of section 856(l)(3) is amended—

11 (1) by inserting “or a health care facility” after
 12 “a lodging facility”, and

13 (2) by inserting “or health care facility” after
 14 “such lodging facility”.

15 **Subtitle E—Effective Dates**

16 **SEC. 241. EFFECTIVE DATES.**

17 (a) IN GENERAL.—Except as otherwise provided in
 18 this section, the amendments made by this title shall apply
 19 to taxable years beginning after the date of the enactment
 20 of this Act.

21 (b) REIT INCOME TESTS.—

22 (1) The amendment made by section 201(a)
 23 and (b) shall apply to gains and items of income rec-
 24 ognized after the date of the enactment of this Act.

1 (2) The amendment made by section 201(c)
 2 shall apply to transactions entered into after the
 3 date of the enactment of this Act.

4 (3) The amendment made by section 201(d)
 5 shall apply after the date of the enactment of this
 6 Act.

7 (c) CONFORMING FOREIGN CURRENCY REVISIONS.—

8 (1) The amendment made by section 203(a)
 9 shall apply to gains recognized after the date of the
 10 enactment of this Act.

11 (2) The amendment made by section 203(b)
 12 shall apply to gains and deductions recognized after
 13 the date of the enactment of this Act.

14 (d) DEALER SALES.—The amendments made by sub-
 15 title C shall apply to sales made after the date of the en-
 16 actment of this Act.

17 **TITLE III—REVENUE** 18 **PROVISIONS**

19 **SEC. 301. BROKER REPORTING OF CUSTOMER'S BASIS IN** 20 **SECURITIES TRANSACTIONS.**

21 (a) IN GENERAL.—

22 (1) BROKER REPORTING FOR SECURITIES
 23 TRANSACTIONS.—Section 6045 (relating to returns
 24 of brokers) is amended by adding at the end the fol-
 25 lowing new subsection:

1 “(g) ADDITIONAL INFORMATION REQUIRED IN THE
2 CASE OF SECURITIES TRANSACTIONS.—

3 “(1) IN GENERAL.—If a broker is otherwise re-
4 quired to make a return under subsection (a) with
5 respect to the gross proceeds of the sale of a covered
6 security, the broker shall include in such return the
7 information described in paragraph (2).

8 “(2) ADDITIONAL INFORMATION REQUIRED.—

9 “(A) IN GENERAL.—The information re-
10 quired under paragraph (1) to be shown on a
11 return with respect to a covered security of a
12 customer shall include the customer’s adjusted
13 basis in such security and whether any gain or
14 loss with respect to such security is long-term
15 or short-term (within the meaning of section
16 1222).

17 “(B) DETERMINATION OF ADJUSTED
18 BASIS.—For purposes of subparagraph (A)—

19 “(i) IN GENERAL.—The customer’s
20 adjusted basis shall be determined—

21 “(I) in the case of any security
22 (other than any stock for which an av-
23 erage basis method is permissible
24 under section 1012), in accordance
25 with the first-in first-out method un-

1 less the customer notifies the broker
2 by means of making an adequate
3 identification of the stock sold or
4 transferred,

5 “(II) in the case of any stock for
6 which an average basis method is per-
7 missible under section 1012 and
8 which is acquired before January 1,
9 2012, in accordance with any accept-
10 able method under section 1012 with
11 respect to the account in which such
12 interest is held, and

13 “(III) in the case of any stock for
14 which an average basis method is per-
15 missible under section 1012 and
16 which is acquired after December 31,
17 2011, in accordance with the broker’s
18 default method unless the customer
19 notifies the broker that he elects an-
20 other acceptable method under section
21 1012 with respect to the account in
22 which such interest is held.

23 “(ii) EXCEPTION FOR WASH SALES.—
24 Except as otherwise provided by the Sec-
25 retary, the customer’s adjusted basis shall

1 be determined without regard to section
2 1091 (relating to loss from wash sales of
3 stock or securities) unless the transactions
4 occur in the same account with respect to
5 identical securities.

6 “(3) COVERED SECURITY.—For purposes of
7 this subsection—

8 “(A) IN GENERAL.—The term ‘covered se-
9 curity’ means any specified security acquired on
10 or after the applicable date if such security—

11 “(i) was acquired through a trans-
12 action in the account in which such secu-
13 rity is held, or

14 “(ii) was transferred to such account
15 from an account in which such security
16 was a covered security, but only if the
17 broker received a statement under section
18 6045A with respect to the transfer.

19 “(B) SPECIFIED SECURITY.—The term
20 ‘specified security’ means—

21 “(i) any share of stock in a corpora-
22 tion,

23 “(ii) any note, bond, debenture, or
24 other evidence of indebtedness,

1 “(iii) any commodity, or contract or
2 derivative with respect to such commodity,
3 if the Secretary determines that adjusted
4 basis reporting is appropriate for purposes
5 of this subsection, and

6 “(iv) any other financial instrument
7 with respect to which the Secretary deter-
8 mines that adjusted basis reporting is ap-
9 propriate for purposes of this subsection.

10 “(C) APPLICABLE DATE.—The term ‘appli-
11 cable date’ means—

12 “(i) January 1, 2010, in the case of
13 any specified security which is stock in a
14 corporation, and

15 “(ii) January 1, 2012, or such later
16 date determined by the Secretary in the
17 case of any other specified security.

18 “(4) TREATMENT OF S CORPORATIONS.—In the
19 case of the sale of a covered security acquired by an
20 S corporation (other than a financial institution)
21 after December 31, 2011, such S corporation shall
22 be treated in the same manner as a partnership for
23 purposes of this section.

24 “(5) SPECIAL RULES FOR SHORT SALES.—

1 “(A) IN GENERAL.—In the case of a short
2 sale, reporting under this section shall be made
3 for the year in which such sale is closed.

4 “(B) EXCEPTION FOR CONSTRUCTIVE
5 SALES.—Subparagraph (A) shall not apply to
6 any short sale which results in a constructive
7 sale under section 1259 with respect to prop-
8 erty held in the account in which the short sale
9 is entered into.”.

10 (2) BROKER INFORMATION REQUIRED WITH RE-
11 SPECT TO OPTIONS.—Section 6045, as amended by
12 subsection (a), is amended by adding at the end the
13 following new subsection:

14 “(h) APPLICATION TO OPTIONS ON SECURITIES.—

15 “(1) EXERCISE OF OPTION.—For purposes of
16 this section, in the case of any exercise of an option
17 on a covered security where the option was granted
18 or acquired in the same account as the covered secu-
19 rity, the amount received or paid with respect to
20 such exercise shall be treated as an adjustment to
21 gross proceeds or as an adjustment to basis, as the
22 case may be.

23 “(2) LAPSE OR CLOSING TRANSACTION.—For
24 purposes of this section, in the case of the lapse (or
25 closing transaction (as defined in section

1 1234(b)(2)(A))) of an option on a specified security
 2 where the taxpayer is the grantor of the option, this
 3 section shall apply as if the premium received for
 4 such option were gross proceeds received on the date
 5 of the lapse or closing transaction, and the cost (if
 6 any) of the closing transaction shall be taken into
 7 account as adjusted basis. In the case of an option
 8 on a specified security where the taxpayer is the
 9 grantee of such option, this section shall apply as if
 10 the grantee received gross proceeds of zero on the
 11 date of the lapse.

12 “(3) PROSPECTIVE APPLICATION.—Paragraphs
 13 (1) and (2) shall not apply to any option which is
 14 granted or acquired before January 1, 2012.

15 “(4) DEFINITIONS.—For purposes of this sub-
 16 section, the terms ‘covered security’ and ‘specified
 17 security’ shall have the meanings given such terms
 18 in subsection (g)(3).”.

19 (3) EXTENSION OF PERIOD FOR STATEMENTS
 20 SENT TO CUSTOMERS.—

21 (A) IN GENERAL.—Subsection (b) of sec-
 22 tion 6045 is amended by striking “January 31”
 23 and inserting “February 15”.

1 (B) STATEMENTS RELATED TO SUB-
2 STITUTE PAYMENTS.—Subsection (d) of section
3 6045 is amended—

4 (i) by striking “at such time and”,
5 and

6 (ii) by inserting after “other item.”
7 the following new sentence: “The written
8 statement required under the preceding
9 sentence shall be furnished on or before
10 February 15 of the year following the cal-
11 endar year in which the payment was
12 made.”.

13 (C) OTHER STATEMENTS.—Subsection (b)
14 of section 6045 is amended by adding at the
15 end the following: “In the case of a consolidated
16 reporting statement (as defined in regulations)
17 with respect to any account which includes the
18 statement required by this subsection, any
19 statement which would otherwise be required to
20 be furnished on or before January 31 of a cal-
21 endar year under section 6042(c),
22 6049(c)(2)(A), or 6050N(b) with respect to any
23 item in such account shall instead be required
24 to be furnished on or before February 15 of

1 such calendar year if furnished as part of such
2 consolidated reporting statement.”.

3 (b) DETERMINATION OF BASIS OF CERTAIN SECURI-
4 TIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS
5 METHOD.—Section 1012 (relating to basis of property–
6 cost) is amended—

7 (1) by striking “The basis of property” and in-
8 serting the following:

9 “(a) IN GENERAL.—The basis of property”,

10 (2) by striking “The cost of real property” and
11 inserting the following:

12 “(b) SPECIAL RULE FOR APPORTIONED REAL ES-
13 TATE TAXES.—The cost of real property”, and

14 (3) by adding at the end the following new sub-
15 sections:

16 “(c) DETERMINATIONS BY ACCOUNT.—

17 “(1) IN GENERAL.—In the case of the sale, ex-
18 change, or other disposition of a specified security
19 on or after the applicable date, the conventions pre-
20 scribed by regulations under this section shall be ap-
21 plied on an account by account basis.

22 “(2) APPLICATION TO OPEN-END FUNDS.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), any stock in an open-end
25 fund acquired before January 1, 2010, shall be

1 treated as a separate account from any such
2 stock acquired on or after such date.

3 “(B) ELECTION BY OPEN-END FUND FOR
4 TREATMENT AS SINGLE ACCOUNT.—If an open-
5 end fund elects to have this subparagraph apply
6 with respect to one or more of its stock-
7 holders—

8 “(i) subparagraph (A) shall not apply
9 with respect to any stock in such fund held
10 by such stockholders, and

11 “(ii) all stock in such fund which is
12 held by such stockholders shall be treated
13 as covered securities described in section
14 6045(g)(3) without regard to the date of
15 the acquisition of such stock.

16 A rule similar to the rule of the preceding sen-
17 tence shall apply with respect to a broker hold-
18 ing stock in an open-end fund as a nominee.

19 “(3) DEFINITIONS.—For purposes of this sec-
20 tion—

21 “(A) OPEN-END FUND.—The term ‘open-
22 end fund’ means a regulated investment com-
23 pany (as defined in section 851) which is offer-
24 ing for sale or has outstanding any redeemable
25 security of which it is the issuer and the shares

1 of which are not traded on an established secu-
2 rities exchange.

3 “(B) SPECIFIED SECURITY; APPLICABLE
4 DATE.—The terms ‘specified security’ and ‘ap-
5 plicable date’ shall have the meaning given such
6 terms in section 6045(g).

7 “(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSU-
8 ANT TO A DIVIDEND REINVESTMENT PLAN.—

9 “(1) IN GENERAL.—In the case of any stock ac-
10 quired after December 31, 2009, in connection with
11 a dividend reinvestment plan, the basis of such stock
12 shall be determined using one of the methods which
13 may be used for determining the basis of stock in an
14 open-end fund.

15 “(2) SEPARATE ACCOUNTS; ELECTION FOR
16 TREATMENT AS SINGLE ACCOUNT.—Rules similar to
17 the rules of subsection (c)(2) shall apply for pur-
18 poses of this subsection.

19 “(3) DIVIDEND REINVESTMENT PLAN.—For
20 purposes of this subsection—

21 “(A) IN GENERAL.—The term ‘dividend re-
22 investment plan’ means any arrangement under
23 which dividends on any stock are reinvested in
24 stock identical to the stock with respect to
25 which the dividends are paid.

1 “(B) INITIAL STOCK ACQUISITION TREAT-
2 ED AS ACQUIRED IN CONNECTION WITH
3 PLAN.—Stock shall be treated as acquired in
4 connection with a dividend reinvestment plan if
5 such stock is acquired pursuant to such plan or
6 if the dividends paid on such stock are subject
7 to such plan.”.

8 (c) INFORMATION BY TRANSFERORS T AID BRO-
9 KERS.—

10 (1) IN GENERAL.—Subpart B of part III of
11 subchapter A of chapter 61 is amended by inserting
12 after section 6045 the following new section:

13 **“SEC. 6045A. INFORMATION REQUIRED IN CONNECTION**
14 **WITH TRANSFERS OF COVERED SECURITIES**
15 **TO BROKERS.**

16 “(a) FURNISHING OF INFORMATION.—Every applica-
17 ble person which transfers to a broker (as defined in sec-
18 tion 6045(c)(1)) a security which is a covered security (as
19 defined in section 6045(g)(3)) in the hands of such appli-
20 cable person shall furnish to such broker a written state-
21 ment in such manner and setting forth such information
22 as the Secretary may by regulations prescribe for purposes
23 of enabling such broker to meet the requirements of sec-
24 tion 6045(g).

1 “(b) APPLICABLE PERSON.—For purposes of sub-
2 section (a), the term ‘applicable person’ means—

3 “(1) any broker (as defined in section
4 6045(c)(1)), and

5 “(2) any other person as provided by the Sec-
6 retary in regulations.

7 “(c) TIME FOR FURNISHING STATEMENT.—Except
8 as otherwise provided by the Secretary, any statement re-
9 quired by subsection (a) shall be furnished on the date
10 of the transfer described in such subsection.”.

11 (2) ASSESSABLE PENALTIES.—Paragraph (2)
12 of section 6724(d) (defining payee statement) is
13 amended by redesignating subparagraphs (I)
14 through (CC) as subparagraphs (J) through (DD),
15 respectively, and by inserting after subparagraph
16 (H) the following new subparagraph:

17 “(I) section 6045A (relating to information
18 required in connection with transfers of covered
19 securities to brokers).”.

20 (3) CLERICAL AMENDMENT.—The table of sec-
21 tions for subpart B of part III of subchapter A of
22 chapter 61 is amended by inserting after the item
23 relating to section 6045 the following new item:

“Sec. 6045A. Information required in connection with transfers of covered se-
curities to brokers.”.

1 (d) ADDITIONAL ISSUER INFORMATION TO AID BRO-
2 KERS.—

3 (1) IN GENERAL.—Subpart B of part III of
4 subchapter A of chapter 61 of the Internal Revenue
5 Code of 1986, as amended by subsection (b), is
6 amended by inserting after section 6045A the fol-
7 lowing new section:

8 **“SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING**
9 **BASIS OF SPECIFIED SECURITIES.**

10 “(a) IN GENERAL.—According to the forms or regu-
11 lations prescribed by the Secretary, any issuer of a speci-
12 fied security shall make a return setting forth—

13 “(1) a description of any organizational action
14 which affects the basis of such specified security of
15 such issuer,

16 “(2) the quantitative effect on the basis of such
17 specified security resulting from such action, and

18 “(3) such other information as the Secretary
19 may prescribe.

20 “(b) TIME FOR FILING RETURN.—Any return re-
21 quired by subsection (a) shall be filed not later than the
22 earlier of—

23 “(1) 45 days after the date of the action de-
24 scribed in subsection (a), or

1 “(2) January 15 of the year following the cal-
2 endar year during which such action occurred.

3 “(c) STATEMENTS TO BE FURNISHED TO HOLDERS
4 OF SPECIFIED SECURITIES OR THEIR NOMINEES.—Ac-
5 cording to the forms or regulations prescribed by the Sec-
6 retary, every person required to make a return under sub-
7 section (a) with respect to a specified security shall furnish
8 to the nominee with respect to the specified security (or
9 certificate holder if there is no nominee) a written state-
10 ment showing—

11 “(1) the name, address, and phone number of
12 the information contact of the person required to
13 make such return,

14 “(2) the information required to be shown on
15 such return with respect to such security, and

16 “(3) such other information as the Secretary
17 may prescribe.

18 The written statement required under the preceding sen-
19 tence shall be furnished to the holder on or before January
20 15 of the year following the calendar year during which
21 the action described in subsection (a) occurred.

22 “(d) SPECIFIED SECURITY.—For purposes of this
23 section, the term ‘specified security’ has the meaning given
24 such term by section 6045(g)(3)(B). No return shall be
25 required under this section with respect to actions de-

1 scribed in subsection (a) with respect to a specified secu-
 2 rity which occur before the applicable date (as defined in
 3 section 6045(g)(3)(C)) with respect to such security.

4 “(e) PUBLIC REPORTING IN LIEU OF RETURN.—The
 5 Secretary may waive the requirements under subsections
 6 (a) and (c) with respect to a specified security, if the per-
 7 son required to make the return under subsection (a)
 8 makes publicly available, in such form and manner as the
 9 Secretary determines necessary to carry out the purposes
 10 of this section—

11 “(1) the name, address, phone number, and
 12 email address of the information contact of such
 13 person, and

14 “(2) the information described in paragraphs
 15 (1), (2), and (3) of subsection (a).”.

16 (2) ASSESSABLE PENALTIES.—

17 (A) Subparagraph (B) of section
 18 6724(d)(1) of such Code (defining information
 19 return) is amended by redesignating clauses (iv)
 20 through (xix) as clauses (v) through (xx), re-
 21 spectively, and by inserting after clause (iii) the
 22 following new clause:

23 “(iv) section 6045B(a) (relating to re-
 24 turns relating to actions affecting basis of
 25 specified securities),”.

(B) Paragraph (2) of section 6724(d) of such Code (defining payee statement), as amended by subsection (c)(2), is amended by redesignating subparagraphs (J) through (DD) as subparagraphs (K) through (EE), respectively, and by inserting after subparagraph (I) the following new subparagraph:

“(J) subsections (c) and (e) of section 6045B (relating to returns relating to actions affecting basis of specified securities).”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code, as amended by subsection (b)(3), is amended by inserting after the item relating to section 6045A the following new item:

“Sec. 6045B. Returns relating to actions affecting basis of specified securities.”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 2010.

(2) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—The amendments made by subsection (a)(3) shall apply to statements required to be furnished after December 31, 2008.

1 **SEC. 302. DELAY IN APPLICATION OF WORLDWIDE ALLOCA-**
2 **TION OF INTEREST.**

3 (a) IN GENERAL.—Paragraphs (5)(D) and (6) of sec-
4 tion 864(f) are each amended by striking “December 31,
5 2008” and inserting “December 31, 2009”.

6 (b) TRANSITIONAL RULE.—Subsection (f) of section
7 864 is amended by adding at the end the following new
8 paragraph:

9 “(7) TRANSITION.—In the case of the first tax-
10 able year to which this subsection applies, the in-
11 crease (if any) in the amount of the interest expense
12 allocable to sources within the United States by rea-
13 son of the application of this subsection shall be 90
14 percent of the amount of such increase determined
15 without regard to this paragraph.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 December 31, 2008.

19 **SEC. 303. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
20 **TAXES.**

21 (a) REPEAL OF ADJUSTMENT FOR 2012.—Subpara-
22 graph (B) of section 401(1) of the Tax Increase Preven-
23 tion and Reconciliation Act of 2005 is amended by striking
24 the percentage contained therein and inserting “100 per-
25 cent”.

1 (b) MODIFICATION OF ADJUSTMENT FOR 2013.—
2 The percentage under subparagraph (C) of section 401(1)
3 of the Tax Increase Prevention and Reconciliation Act of
4 2005 in effect on the date of the enactment of this Act
5 is increased by 13 percentage points.

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